

Office of the Secretary of State,  
Sacramento, California, November 30<sup>th</sup> 1857

I, David F. Douglass, Secretary of the State of the State of California, do hereby certify that J. Carrillo whose name is subscribed to the annexed certificate was, at the time of signing the same, duly commissioned, qualified and acting Judge of the Second Judicial District and that Eugene Leis whose name is subscribed to the annexed certificate was, at the time of signing the same, a duly commissioned, qualified and acting clerk of the District Court in said Second District in and for the County of Santa Barbara in said State, and that full faith and credit are due to his official acts as such.

Witness my hand, and the Great Seal of State, at Office in Sacramento, California,  
the Thirtieth day of November A.D. 1857

David F. Douglass  
Secretary of State



State of California County of Santa Barbara

Thomas Wallace More  
vs  
M. J. Box

Dis. Court 2<sup>nd</sup>, Judicial District

The Plaintiff Thomas Wallace More a resident of the County of Santa Barbara complains of Mr. J. Box and says that on or about the 29<sup>th</sup> of July 1853 the said defendant being indebted to the plaintiff in the sum of two thousand dollars undertook in and by a writing to that effect bearing said date to pay the same to the plaintiff in two months thereafter with five percent per month interest. The plaintiff further shows that the defendant by way of security for the repayment of said sum and interest, assigned to the plaintiff the rights of said defendant in a certain herd of swine which defend and represented as valuable and being then under proper keeping and subjection in the island of Santa Cruz.

Plaintiff further shows that the defendant on or about

Still representing as aforesaid and as this plaintiff believes and avers fraudently and with intent to deceive the condition of said swine to be such as above stated and such as to constitute a valuable security for a further loan borrowed from plaintiff and the plaintiff then and there lent to him the further sum of one thousand dollars at five percent per month interest payable together with the amount of the former loan in the further terms of two months after said first day of September 1853.

Plaintiff further shows that thereafter and before the time at which the said obligation of the defendant became due viz on or about the 20<sup>th</sup> of October 1853, plaintiff demanded to hand the possession of the said swine aforesaid assigned to plaintiff as collateral security and that plaintiff neglected to deliver the same, but subscribed a certain document wherein and whereby he empowered Mr. Martin, Mr. Kimberly to take possession of the said swine in behalf of this plaintiff.

Plaintiff is informed and believes that the said Kimberly repaired for that purpose to said island of Santa Cruz but found that the greater part of said swine had become wild from abandonment and neglect of the said defendant and his agents and that the expense of gathering and herding them would be more than the value of the same. That the said Kimberly only succeeded in capturing a small number thereof, to wit: about two hundred head of swine of all kinds which from their wild and intractable nature escaped soon after from the control of this plaintiff, strayed away, were devoured or stolen and have totally disappeared and that of the said herd of swine there is nothing left but a certain number of wild swine ranging among the precipitous hills of Santa Cruz, unapproachable, untamable, and daily hunted by the inhabitants of said island as force natural and nuisances.

And the plaintiff avers and expressly charges that the defendant by his abandonment & neglect of said swine lost all rights of property of in and to the same whereby this plaintiff was defrauded of the said collateral security for the same so as aforesaid advanced by him.

The plaintiff further shows that the defendant although requested has neglected and refused to pay to him the said sum of two thousand dollars or the said further sum of one thousand dollars or any part thereof or any part of the interest moneys due thereon and the plaintiff avers that there is now due to him by the defendant the said sums of three

thousand dollars and interest on two thousand at five per cent per month fro July 29<sup>th</sup>, 1853 and interest at five percent per month on one thousand dollars from September 1<sup>st</sup>, 1853 for which several sums together with the costs of this suit he prays judgment.

The plaintiff further shows that about the end of the year 1853 as plaintiff is informed and believes the said defendant absconded from this state and removed therefrom and that his residence is unknown to the plaintiff although he has made deligent inquiry to ascertain the sae. Wherefore he prays that the summons in this action be served by publication according to law.

Eugene Seis, Attorney for Plaintiff, City and County of Santa Barbara:

Thomas W. More, the plaintiff in this suit being duly sworn says that he has read the foregoing compaint and knows the contents of there of and that the same as true of his own knowledge except as to those matters that are therein stated to be on information and belief and as to those he believes them to be true, [T. Wallace More signature]

Sworn before me this 2<sup>nd</sup> day of June 1857.

Valentine W. Hearne, Justice of the Peace

Dist. Court 2nd Judicial District, Santa Barbara County

T. Wallace More

vs

Mr. J. Box

Complaint

Messr, The summons in this caause being by order of this court published for 3 months consecutively in the Santa Barbara Gazette and no answer being filed 40 days thereafter the default of Defendant for not answering was entered in pursuance of an order of the court in open court.

November 9, 1857

Eugene Seis

clerk

Filed June 2<sup>nd</sup>, 1857

Gerald Fishes

clerk

State of California, Santa Barbara County in the District Covers 2<sup>nd</sup> Judicial District

Thomas Wallace More vs M.J.Box

The People of the State of California to Mr. J. Box:

You are hereby required to appear and answer in an action brought against you by Thomas Wallace More in the District Court of the Second Judicial District in and for Santa Barbara County and to answer the complaint filed therein within ten (10) days, if served within this county: within twenty (20) days if served out of this county, but within this District or in all other cases within forty (40) days after the service in January of this Summons (always in either case exclusive of the day of service) or Judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought relief, and as to those he believes them to be true.

T. Wallace More

Sworn before me this 2<sup>nd</sup> day of June 1857

Valentine W. Hearne

Justice of the Peace

State of California, Santa Barbara County in the District Covers 2<sup>nd</sup> Judicial District

Thomas Wallace More , Plaintiff

vs

Mr. J. Box, Defendant

In reading the complaint of plaintiff in this cause duly verified and is appearing therefrom that the said defendant has departed from this state, and that a cause of action exists against the said defendant and in motion of Eugene Seis, attorney for plaintiff ordered that service of Summons in this cause be made by publication thereof a week for three months successively made at Santa Barbara on this 2<sup>nd</sup> day of June A.D. 1857.

Charles Fernald

County Judge

State of California, Santa Barbara County

I, George D Fisher, Clerk of the District Court of the Second Judicial District in and for said County do hereby certify that the foregoing affidavit and order are true copies of the originals now on file in my office. Witness my hand and the Seal of said court this 8<sup>th</sup> day of June A.D. 1857.

George D. Fisher  
Clerk

In the District Court, 2<sup>nd</sup> Judicial District, Santa Barbara County

Thomas Wallace More , Plaintiff

vs

Mr. J. Box, Defendant

Peter Farras being duly sworn in open court deposes and says: that he is one of the proprietors of the Santa Barbara Gazette, newspaper printed and published in the city & county of Santa Barbara: that the foregoing summons and order in this cause has been published in the above named "Gazette" once a week for three months successively.

Peter Farras

Sworn & Subscribed to in open court this fourth day of November A.D. 1857

Eugene Seis

Clerk

2<sup>nd</sup> Judicial District

District Court, 2<sup>nd</sup> Judicial District, Santa Barbara County

Thomas Wallace More , Plaintiff

vs

Mr. J. Box, Defendant

And now on this fourth day of November A.D. 1857 comes the plaintiff and shows the orders of this court for service by publication of the summons and prays that defendants default be entered whereupon & on due proof of publication & that the appearance of the defendant has not been entered, ordered that his default for not answering be and the same is hereby accordingly entered.

And a jury trial being waived, the court proceeded to try the cause and such proceedings were thereupon had that the court took the cause under advisement & caused the following opinion to be filed with the clerk. This cause comes to trial before the court without a jury in the absence of the defendant where default for not answering after due proof of publication of the Summons under the statute was ordered by the Court to be entered-it appears that in July 1838 the defendant borrowed two thousand dollars and soon afterwards one thousand dollars of the plaintiff. As a security for the loan the defendant subscribed two secured bills of sale of certain hogs on the island of Santa Cruz representing them to be valuable property in good keeping & subjection & sufficient security for the loan. No paper for the direct repayment of the loan accompanied the bills, the promise to repay is at most implied. But the Bills of Sale are conditional and provide for redemption if the defendant shall by a certain day repay the money & 5% to the plaintiff-afterwards demands possession of the hogs & an enquirey found that they by defendants neglect had become unmanageable & had withdrawn to the mountains where they ranged in a wild state not being worth the catching. The defendant soon afterwards absconded from the state.

This must be treated as an action of fraud not of Contract-the complaint prays for damages to be computed according to the rate of interest of money at 5% per month which in figures may be translated as a demand for damages in the sum of \$10,500 dollars-the Court adjudging within that margin finds the sum of \$5000. having the calcu-



lation are a computation of principal and interest due at 5% for the 29th of September 1853 interest since then at 10% per years and a round sum for expenses & other specific damages of which the evidence showed some traces-ordered therefore that Judgment be entered in favor of plaintiff & against defendant for the sum of \$5000 Dollars and costs- Santa Barbara 9<sup>th</sup> November 1857

J. Carrillo, Judge

Now therefore Judgment is hereby entered in favor of plaintiff & against defendant for damages \$5000.00, for Costs--\$93.95, altogether the sum of \$5093.95 (Five thousand ninety three 95/100 Dollars).

Eugene Seis, clerk

A true copy of the Judgment in cause taken this 9<sup>th</sup> day of November A.D. 1857

Eugene Seis

Clerk, 2nd Court, 2<sup>nd</sup> Judicial District

State of California, Santa Barbara County

I, Eugene Seis, clerk of the District Court of 2nd Judicial District do hereby certify that the foregoing complaint with the endorsements therein, the Summons with the order of publication-affidavit & certificate of Clerk together with the affidavit of publication and the finding and Judgment of the Court are true and correct copies of the originals now on file in my office.

In testimony whereof I have hereunto set my hand and the seal of the District Court of 2nd Judicial District on this 9th day of November A.D. 1857

Eugene Seis, Clerk

Charles E. Cook

Deputy

State of California, County of Santa Barbara

I, Joaquin Carrillo, Judge of the District Court of the 2nd Judicial District of the State of California, do hereby certify that the forgoing attestation of Eugene Seis, County Clerk of the County of Santa Barbara and ex officio Clerk of the District Court of the 2<sup>nd</sup> Judicial District in and for the County of Santa Barbara is in due form of law.

J. Carrillo

Judge of the District

2<sup>nd</sup> Judicial District